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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,960	06/09/2000	Steven Augart	35479-00007	2374
24318	7590	04/03/2006		
Mitchell, Silberberg & Knupp, LLP 11377 West Olympic Boulevard Los Angeles, CA 90064			EXAMINER MIRZA, ADNAN M	
			ART UNIT 2145	PAPER NUMBER
DATE MAILED: 04/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/590,960

Applicant(s)

AUGART, STEVEN

Examiner

Adnan M. Mirza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byers et al (U.S. 6,975,619) and Cheng et al (6,731,314).

As per claims 1,18 Byers disclosed a method for use by a first node on a network in communicating with a second node on the network, said method comprising the steps of: the first node on the network receiving a data packet over the network from the second node on the network (col. 5, lines 24-37), the data packet including a network identifier for the second node and a Time-To-Live (TTL) field that has a value (col. 4, lines 35-57), wherein the value of the TTL field for the data packet indicates a maximum additional number of hops that could have been made by the data packet (col. 4, lines 51-54); first node sending a probe packet addressed to the network identifier for the second node (col. 4, lines 40-50), wherein the probe packet also includes a TTL field, and wherein an initial value for the TTL field of the probe packet is set based on the value for the TTL field of the data packet (col. 4, lines 52-55). The first node receiving a response packet from a third node on the network, in response to the probe packet, wherein the first, second and third nodes are different nodes on the network (col. 3, lines 61-67);

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However Byers et al did not disclose in detail the first node obtaining a geographic location for the third node based on node identification information in the response packet; and the first node transmitting geographic-specific information over the network to the second node based on the geographic location obtained.

In the same field of endeavor Cheng disclosed a server is a computer that holds the files for one or more sites. On the on hand, a very large web site may reside on a number of servers that may be in different locations. IBM is a good example; its web site consists of thousand of files spread out over many servers in world-wide locations (col. 26, lines 65-67; col. 27, lines 1-4)

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have incorporated a server is a computer that holds the files for one or more sites. On the on hand, a very large web site may reside on a number of servers that may be in different locations. IBM is a good example; its web site consists of thousand of files spread out over many servers in world-wide locations as taught by Cheng in the method of Byers to route the request to a geographically more distant location would otherwise reduce in latency, fewer hops, or provide more processing capacity at the server.

3. As per claims 2,19 Byers-Cheng disclosed further comprising steps of: receiving a response to the probe packet, the response including a network identifier for a router (byers, col.

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3, lines 48-58); and comparing the network identifier for the router to a database that includes a geographic location for each of plural network identifiers in order to identify a geographic location for the router (Byers, col. 4, lines 1-13).

4. As per claim 3 Byers-Cheng further comprising a step of using the geographic location for marketing purposes (Cheng, col. 27, lines 1-5).

5. As per claim 4 Byers-Cheng disclosed further comprising a step of using the geographic location for compiling demographic information regarding site visitors (col. 4, lines 13-34).

6. As per claim 5 Byers-Cheng disclosed further comprising a step of caching the geographic location for use in responding to subsequent data packets from the second node (Cheng, col. 24, lines 51-59).

7. As per claim 6 Byers-Cheng disclosed wherein the geographic location identified for the router is identified as a geographic location for the second node (Byers, col. 3, lines 47-60).

8. As per claims 7,21 Byers-Cheng disclosed further comprising steps of: obtaining information that is based on the geographic location for the second node; and transmitting said information from the first node to the second node (Byers, col. 4, lines 35-45).

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9. As per claims 8,25 Byers-Cheng disclosed further comprising a step of sending a second probe packet prior to receiving a response from the probe packet (Byers, col. 4, lines 58-67).

10. As per claims 9,22 Byers-Cheng disclosed wherein the second probe packet has a TTL field, wherein an initial value for the TTL field of the second probe packet is set based on the TTL value of the data packet, and wherein the initial value set in the TTL field for the second probe packet is different than the initial value of the TTL field for the probe packet (Byers, col. 4, lines 49-54).

11. As per claims 10,26 Byers-Cheng disclosed further comprising a step of sending a number of probe packets having a same initial value in their TTL fields, wherein the number of probe packets is based on at least one of: value of the location information, an expected data gram loss rate, cost of bandwidth, availability of bandwidth, and network congestion control policies (Byers, col. 4, lines 49-55).

12. As per claim 11 Byers-Cheng disclosed further comprising steps of: estimating a number of hops taken by the data packet based on the TTL field of the data packet (Byers, col. 4, lines 49-55); and sending plural probe packets addressed to the network identifier for the second node (Byers, col. 4, lines 34-49).

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13. As per claims 12,28 Byers-Cheng disclosed wherein the initial TTL values for a majority of the probe packets sent in response to the data packet are set based on the number of hops estimated in said estimating step (Byers, col. 4, lines 49-55).

14. As per claim 13 Byers-Cheng disclosed wherein the plural probe packets are sent without waiting to receive a response from any previously sent probe packet (Byers, col. 6, lines 23-31).

15. As per claims 14,29 Byers-Cheng disclosed further comprising steps of: determining, based on responses to the plural probe packets, whether a routing anomaly exists; and if it is determined that a routing anomaly exists, sending a second set of probe packets (Byers, col. 3, lines 48-58).

16. As per claim 15 Byers-Cheng disclosed wherein it is determined in said determining step that asymmetric routing exists (Byers, col. 4, lines 1-14).

17. As per claim 16 Byers-Cheng disclosed wherein it is determined in said determining step that multi-path routing exists (Byers, col. 4, lines 1-14).

18. As per claims 17,24,30 Byers-Cheng disclosed wherein the data packet is a SYN packet requesting initiation of a TCP/IP connection, and wherein the probe packet is sent prior to completion of handshaking required to initiate the TCP/IP connection (Byers, col. 3, lines 46-57).

19. As per claim 20 Byers-Cheng disclosed further comprising a step of identifying a geographic location for the second node as the geographic location for the router that is closest in number of hops to the second node from among the routers for which a geographic location was identified in said comparing step (Cheng, col. 26, lines 65-67, col. 27, lines 1-4).

20. As per claims 23,27 Byers-Cheng disclosed wherein each of the probe packets is designed to elicit a response from a network device upon the earlier to occur of: (i) a specified number of hops that is within a range of the number of hops that the data packet made  $\pm N$ , where N is approximately 5, and (ii) encountering the second node (Byers, col. 4, lines 60-67).

21. As per claims 31-34 has the same limitations as claims 1,18 therefore under the same limitations claims 31-34 can be rejected.

### ***Conclusion***

22. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

23. The examiner can normally be reached on Monday to Friday during normal business hours. If attempts to reach the examiner by telephone are unsuccessful, the examiner's



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supervisor, Jason Cardone can be reached on (571)-272-3933. The fax for this group is (703)-746-7239. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).

AM

Adnan Mirza

Examiner

  
JASON CARDONE  
SUPERVISORY PATENT EXAMINER